

PORT AUTHORITY OF THE CITY OF
SAINT PAUL, MINNESOTA

LEASE OF REAL PROPERTY
LOCATED AT

IMPOUND LOT at SOUTHPORT TERMINAL
SAINT PAUL, MN

DATED _____, 2014

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PORT AUTHORITY OF THE CITY OF
SAINT PAUL LEASE OF
REAL PROPERTY LOCATED AT IMPOUND
LOT AT SOUTHPORT TERMINAL

DATED _____

1. **Parties.** The parties to this Lease are:

(a) The Port Authority of the City of Saint Paul, Minnesota, Attention: Director of Real Estate and Development, 380 St. Peter Street, Suite 850, Saint Paul, Minnesota 55102, (the "Landlord");

(b) The City of Saint Paul, Attention:, Real Estate Manager, Office of Financial Services – Real Estate Section, 25 West Fourth Street, Room 1000, Saint Paul, Minnesota 55102 (the "Tenant");

2. **Effective Date.** This Lease shall be effective as of May 1, 2014.

3. **Leased Property.** The property which is the subject of this Lease is the impound lot consisting of approximately 9.1 acres located in the City of St. Paul, County of Ramsey and State of Minnesota, which is legally described on the attached Exhibit A. Such real property includes any and all licenses, easements or other appurtenant rights and is subject to any and all easements, covenants, restrictions or other encumbrances of record, all of which shall hereinafter be referred to collectively the "Property". Tenant acknowledges that it has inspected the Property and completed all investigations and testing of the Property that Tenant desires and Tenant is leasing the Property in an "as-is" condition and not in reliance on any representations of Landlord or of Landlord's employees or agents concerning the physical condition of the Property. The parties agree that at the present time the Property is unimproved except for those specific improvements and personal property if any described on Exhibit B attached hereto, which improvements and personal property are currently and shall remain the property of Landlord unless stated otherwise in Exhibit B.

4. **Common Areas.**

(a) **Common Areas.** To the extent the Leased Premises includes Common Areas, the Tenant has a non-exclusive right to use or possess the Common Areas. The Tenant's rights to use and possess may be subordinate now, or at the Port Authority's sole discretion, in the future to use and possession of and by other persons. Common Areas include railroad tracks, roadways, easements, utilities and any and all other infrastructures.

(b) **Common Area Maintenance Charges.** All Southport Terminal tenants who use the Common Areas are responsible for the pro-rata costs of the maintenance, repair, and replacement of the Common Areas or the contribution of the costs, if any, between them. This Lease Agreement is subject to the Port Authority exercising maintenance, replacement or repair activities. In its sole discretion, the Port Authority may

undertake maintenance, replacement or repair. If in the Port Authority's discretion the maintenance, replacement or repair are the Tenant's obligation and the Tenant has not adequately maintained, replaced or repaired, after written notice and non-completion to correct 30 days thereafter, the Port Authority may undertake the maintenance and repair. Only to the extent that the Common Area is available for use by the Tenant, the Port Authority may bill the Tenant or tenants for the Port Authority's incurred costs plus an additional 10% management fee to be apportioned among the tenants utilizing that Common Area at the Port Authority's discretion. Each invoice shall be due and payable to the Port Authority within thirty (30) days after the date of the invoice.

5. **Term.** In consideration of Tenant's performance of Tenant's obligations under this Lease, Landlord leases the Property to Tenant for the term of twenty (20) years. The term shall commence on May 1, 2014 (the "Commencement Date") and will expire on December 31, 2033 (the "Expiration Date"), unless sooner terminated as provided for in this Lease. Rent will be renegotiated at ten-year intervals. Ninety days prior to the commencement of each ten-year period, parties shall meet to negotiate and agree upon the market-driven rent. If parties cannot agree, rental value shall be determined as set forth below.

6. **Lease Renewal Option.** At the end of the original twenty (20) year lease term, the Tenant shall have two (2) five-year options to renew the Lease. The Landlord shall have the option to deny the Tenant's right to renew in its sole discretion.

7. **Rent.** Commencing on the Commencement Date and continuing thereafter on the first day of each and every month during the term of this Lease, Tenant shall pay to Landlord monthly installments of rent based on a square foot price, in advance, in the amounts, as follows:

Base Rent:	Period Total	Monthly	PSF	% Increase
May 1, 2014 to Dec. 31, 2014	\$ 66,058.68	\$8,257.33	\$0.25	
Jan. 1, 2015 to Dec. 31, 2015	\$101,069.76	\$8,422.48	\$0.255	2.00%
Jan. 1, 2016 to Dec. 31, 2016	\$103,051.52	\$8,587.63	\$0.26	1.96%
Jan. 1, 2017 to Dec. 31, 2017	\$105,033.28	\$8,752.77	\$0.265	1.92%
Jan. 1, 2018 to Dec. 31, 2018	\$107,015.04	\$8,917.92	\$0.27	1.89%
Jan. 1, 2019 to Dec. 31, 2019	\$110,225.49	\$9,185.46	\$0.2781	3.00%
Jan. 1, 2020 to Dec. 31, 2020	\$113,532.26	\$9,461.02	\$0.2864	3.00%
Jan. 1, 2021 to Dec. 31, 2021	\$116,938.22	\$9,744.85	\$0.2950	3.00%
Jan. 1, 2022 to Dec. 31, 2022	\$120,446.37	\$10,037.20	\$0.3039	3.00%
Jan. 1, 2023 to Dec. 31, 2023	\$124,059.76	\$10,338.31	\$0.3130	3.00%

Tenant's covenant to pay Rent is independent of any other covenant, condition, provision or agreement contained in this Lease. Tenant shall pay Rent, as due and without demand, deduction, set-off or counterclaim to Landlord at Landlord's address as set forth in Section 1 above, or at such other address as designated by Landlord from time to time. Tenant shall pay to Landlord a late charge in the amount of \$35.00 per month, which Tenant acknowledges is a fair and reasonable amount to cover Landlord's additional administrative costs caused by Tenant's failure to pay Rent or Tonnage fee (imposed below) in a timely fashion.

8. **Tonnage Rent.** As additional rental, Tenant shall pay to Port Authority an annual tonnage charge (“Tonnage Rent”) in the amount of \$2.00 per car fee for each car processed through the Impound Lot during the prior month. Tenant shall, without expense to Port Authority furnish or cause to be furnished to Port Authority no later than the 31st day of March in each year during the term of this Lease an audit certified signed by the City’s Treasurer showing the actual tonnage during the twelve – month period immediately preceding the 1st day of January of such year. Port Authority shall also have the right from time to time, at its own expense, to cause said books and records to be audited by an independent certified public accountant for the purpose of determining the cars processed in and out of the Leased Premises, and if any audit made by Port Authority should disclose an error, rental shall be promptly adjusted and if the error is more than 2% in the quantity loaded out in any quarter, Tenant shall forthwith upon request of Port Authority, reimburse Port Authority for the cost of such audit, and in addition to paying the Port Authority the adjusted rental payment shall pay interest on any such deficiency at the rate of 6% per annum; provided that any excess payment of rental disclosed by said audit shall be certified to Tenant without interest thereon.

One half of the amount payable by Tenant as tonnage under the Lease will be deposited by the Port Authority into a separate fund, which has been created by the Port Authority and identified as the “River Maintenance Fund.” The Port Authority uses and intends to continue to use the River Maintenance Fund for the purpose of providing for terminal maintenance.

9. **Term Renewal Rent Adjustment: Annual Base Rent and Tonnage Rent.**

(a) **Ten-Year Rental Amount, Original Term Rent.** Tenant and the Port Authority should negotiate and set the Annual Base Rent and Tonnage Rent the second ten year period of the Original Term. Six months prior to the commencement of the second ten-year period, the Port Authority shall propose to Tenant the Annual Base Rent schedule. If the Parties are unable to reach an agreement on the Annual Base Rent amount for the next ten years, then the Parties shall submit to a market appraisal of the Annual Base Rent value via the following process.

(b) **Rent Arbitration.** Either Party may trigger the commencement of non-binding rent arbitration by filing a petition with either the American Arbitration Association, or before a person agreed to by the Parties for rent arbitration (the arbitrator shall be one individual who is objective and who has no conflicts of interest) , in either case copying the other Party on the written notification. That notwithstanding, either Party may elect to have the Annual Base Rent value determined by a board of three (3) real estate appraisers, one selected by the Port Authority, one selected by Tenant, and the third selected by the first two (2) appraisers, but the election must be made within no later than five (5) days after the commencement of the arbitration, if arbitration had commenced. The Parties shall be permitted to present to the arbitrator(s) or assessors as rent comparables any commercial/industrial properties along the Mississippi River, the Minnesota River, or other comparable land use they deem appropriate but in any event Southport, Red Rock, Barge Terminal No. 1 and Barge Terminal No. 2 properties are agreed to by the Parties to be acceptable comparables needing only minor adjustments to reflect their particular facts and circumstances. If a single arbitrator is used, then the arbitration fees charged by the arbitrator shall be split between the Parties; otherwise both

Parties are solely and entirely responsible for their own arbitration expenses. If three appraisers are used, then each Party is responsible for the fees charged by the appraiser selected by the Party and fees charged by the third selected by the first two (2) appraisers shall be split between the Parties.

(i) Either the Tenant or the Port Authority must request an arbitration hearing within fifteen days from the commencement of the arbitration; otherwise the arbitration will be conducted on written submissions only. If a hearing is held, then the hearing shall be conducted in downtown Saint Paul, Minnesota, and shall be conducted in one day, lasting no longer than 10 hours, including breaks.

(ii) The Annual Base Rent value determined by the board of appraisers shall be completed and served on the Parties no later than ninety (90) days prior to the next commencing five-year period, otherwise if the Term continues with no appraisal board decision, then the default Annual Base Rent shall be a 0.005 increase per square foot per annum from the previous year's Annual Base Rent, until the board of appraisers' decision takes effect. In such an instance, the decision shall not be retroactive.

(c) **Net Lease.** In addition to the Annual Base Rent and Tonnage Rent, Tenant must make other payments under various provisions of this Lease. Such other payments, together with the Annual Base Rent and Tonnage Rent payable shall, for all purposes, be included in the term "Rent". Tenant acknowledges that this is a "net" lease in all respects in that Tenant will be responsible for (and Port Authority shall have no responsibility for) all costs and expenses relating to the Leased Premises including, but not limited to, those relating to Annual Base Rent, any taxes payable by Tenant under this Lease, utilities, insurance, construction, improvements, maintenance, repair and replacement.

10. **Use.** Tenant's use of the Property is subject to the following terms and conditions:

a. Tenant shall use the Property for only the storage of impounded motor vehicles and other property impounded in accordance with state and local laws and regulations, and for no other uses, without the written consent of Landlord.

b. Tenant shall at all times comply with all applicable laws, ordinances and governmental regulations affecting the Property and the use of the Property and maintain in full force and effect all licenses, permits or approvals necessary in connection with the use of the Property.

c. Tenant may not use the Property or any improvements on the Property for the use, storage, handling, transportation or disposal of any Hazardous Substances, Hazardous Waste or Pollutants and Contaminants as those terms are defined in 42 U.S.C. §9601 et seq. (CERCLA) or Minn. Stat. Ch. 115B (MERLA) and regulations promulgated thereunder as those acts may be amended from time to time, without Landlord's prior written consent.

d. Tenant shall not carry any stock of goods or do anything in or about the Property which will in any way impair or invalidate the obligation of an

insurer under any policy of insurance required under this Lease.

e. Tenant shall have the right to place signs on the Property only if such signs are used to identify Tenant and Tenant's operations, and or give directions which signs must at all times be in compliance with applicable laws, ordinances, regulations, and which signs have been approved in advance by Landlord in Landlord's reasonable discretion.

11. **Real Estate Taxes and Taxes in Lieu of Real Estate Taxes.** Tenant shall pay all assessments or service charges due and payable during the term of this Lease. The parties acknowledge that both Landlord and Tenant are political subdivisions of the State of Minnesota and thus exempt from the payment of real estate taxes. If the laws of the State of Minnesota subsequently authorize the levy of a tax on property owned or used by a political subdivision, the payment of said tax shall be the responsibility of Tenant.

12. **Utilities.** Tenant shall pay, when due, all charges for water and sewer, garbage and refuse removal, electricity, natural gas, fuel oil, telephone service and any other utility services furnished to the Property during the term of the Lease.

13. **Tenant's Maintenance and Repair of the Property.** Tenant shall, at all times throughout the term of this Lease, and at its sole expense, keep, repair and maintain the Property in a clean, safe, sanitary condition and in compliance with all applicable statutes, laws, ordinances and regulations.

14. **Landlord's Right to Perform Tenant's Obligations.** Landlord shall have no obligation to maintain the Property or to repair or replace any improvements on the Property or make any payments relating to the Property; provided, however, Landlord shall have the right, but not the obligation, to do required maintenance or to make repairs and replacements that are the obligation of Tenant or to make any payments required to be made by Tenant. In connection with any such work performed or payments made, Landlord shall notify Tenant of the cost of such work or the amount of any payment made, including any reasonable overhead charge for Landlord, and Tenant shall promptly pay such amount within 10 days of receiving such notice Landlord shall have the right to enter upon the Property pursuant to Section 23 hereof to make any needed repairs or replacements.

15. **Installation of Fixtures, Alteration or Improvement of the Property.** Tenant shall not make any alterations, additions, or improvements in or to the Property or add, disturb or in any way change the Property without Landlord's prior written consent, which consent may be granted in Landlord's sole discretion. If a governmental agency requires alterations, additions or improvements to the Property because of Tenant's use of the Property or if Landlord consents to requested changes, Tenant shall make such alterations, additions or improvements at Tenant's cost and expense after first obtaining Landlord's written approval of plans and specifications therefor and furnishing Landlord with an adequately secured indemnification (by bond, letter of credit or otherwise) against liens, costs, damages and expenses arising out of such work. If Landlord consents to Tenant's alterations, improvements or additions, Tenant shall comply with all laws, ordinances and governmental regulations affecting the Property and such work, and Tenant shall warrant to Landlord that all such alterations, additions or improvements shall be in strict compliance with all

relevant laws, ordinances, governmental regulations, and insurance requirements. Tenant may commence the construction of such alterations or additions only after obtaining and providing to Landlord the requisite approvals, licenses and permits and indemnifications. All alterations, installations, physical additions or improvements to the Property shall immediately become the property of Landlord and shall be surrendered to Landlord upon the termination of this Lease; provided, however, Landlord can, by notice to Tenant at the times such alterations are made or reasonably prior to the expiration of the term, require that such alterations, installations, physical additions or improvements be removed by Tenant at Tenant's expense prior to the end of the term. If the same is not removed by Tenant prior to the end of the term, in addition to any and all other remedies of Landlord hereunder, Landlord shall have the right to recover any and all costs that Landlord incurs in removing such alterations, installations, physical additions or improvements, and Tenant hereby consents to Landlord taking control of such items and physically removing the same from the Property. It is the further right of Landlord to sell or dispose of such items in any way that Landlord determines is reasonable. Notwithstanding any language herein to the contrary, if prior to the beginning of the Term, or at any time during the Term, Tenant requests Landlord's consent to Tenant's installation of Tenant Fixtures and Landlord consents to such installation, such Tenant Fixtures shall remain the property of Tenant and Tenant shall have the obligation to remove such Tenant Fixtures upon the termination of the Lease at the Tenant's sole cost and expense so long as any such Tenant Fixtures are specifically described on Exhibit B attached hereto and identified as Tenant Fixtures. If such Fixtures are installed during the term of this Lease, Exhibit B must be amended to reflect such Fixtures.

16. **Tenant Use, Tenant Improvements, and Community Process.** During the first five years of the Lease Term, Tenant agrees to make what it deems appropriate investments in the Property. With respect to Tenant's use of the Property, Tenant agrees to work with the Landlord to address any community questions about the Tenant's plans for ongoing use of the Impound Lot at Southport. Tenant will need to be prepared to address community questions, if any, about potential impacts on the soil and groundwater from the Impound Lot use.

17. **Screening/Landscape Improvements.** On or before June 30, 2015, Landlord shall provide Tenant instructions regarding any landscape improvements and/or other screening that is required by the Landlord and required for screening between the Property and neighborhood views. Landlord and Tenant agree to come to a mutual agreement on the scope of improvements to be done, taking into account Tenant's security considerations, costs, etc. On or before June 30, 2016, Tenant shall design, construct, install and pay for all landscape improvements and/or other screening that is required by the Landlord and required for screening between the Property and neighborhood views. The Landlord's imposed screening and improvements shall not exceed \$50,000.

18. **Stormwater Management.** Tenant shall be responsible for complying with any regulatory requirements for stormwater management, including the construction of any Leased Premises improvements to comply with stormwater management regulatory requirements. The Port Authority may in its sole discretion, at any time, to incorporate stormwater management at the Lease Premises or at the Southport Terminal in any manner (the "Voluntary Improvements"). In such an Event, where the Port Authority's planned stormwater management plan may benefit or positively impact the Tenant and its use of the Leased Premises, the Port Authority agrees to confer with the Tenant and provide the Tenant a reasonable opportunity to review and comment

on the Port Authority's proposals as well as any substantial and material changes to the proposal. The Tenant agrees that the Port Authority may subsequently incorporate stormwater management at the Lease Premises or at the Southport Terminal and agrees to cooperate with the Port Authority in all respects including design, permitting, and construction, and further agrees to monetarily contribute to the stormwater management system including regulatory compliance; however, Tenant's contribution shall be based on a square footage pro-rata allocation of all tenants benefitting from the stormwater management system.

19. **Indemnification Covenants to Defend and Hold Harmless.**

(a) **Claims Indemnity.** "Port Authority Parties" means the Port Authority and its employees, directors, officers, contractors, agents and invitees. "Claims" means all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses or expenses, including, without limitation, reasonable attorneys' fees and the costs and expenses of enforcing any indemnification, defense or hold harmless obligation under this Lease.

(b) Tenant agrees to indemnify, defend and hold the Port Authority Parties harmless from and on account of any and all loss, injury, death, damage, claim of damage and liability for damage to any person or any property that may arise in any manner by reason of acts or omissions of Tenant and its directors, officers, employees, contractors, agents and invitees (collectively the "Tenant Parties") that occur during the Lease Term, or prior to the Lease Term during Tenant's occupancy under the Existing Lease or any predecessor lease or occupancy agreement.

(c) To the fullest extent allowable under law, Tenant agrees to release, indemnify, protect, defend (with counsel reasonably acceptable to the Port Authority) and hold harmless the Port Authority Parties from and against all Claims arising from (i) any act, omission, negligence or misconduct of the Tenant Parties, (ii) any accident, injury, occurrence or damage in, about or to the Leased Premises (except to the extent due to the negligence or intentional misconduct of the Port Authority Parties), and (iii) to the extent caused in whole or in part by Tenant Parties, any accident, injury, occurrence or damage in, about, to or involving the Leased Premises.

(d) **Duty to Defend.** As to respective insurance, Tenant is self-insured and as a self-insured governmental entity, Tenant's insurance shall be primary and, correspondingly, Tenant shall accept a tender of defense from the Port Authority and defend the Port Authority from and against all Claims in any and all actions or claims where both are named as a party to the action or where a claim arises out of the same event(s) and are made against the Port Authority and Tenant.

20. **Hazardous Substances and Existing Environmental Conditions.**

Tenant takes the Leased Premises "AS IS" in all respects relating to the presence of Hazardous Substances located on the Leased Premises.

(a) For purposes of this Lease, "Hazardous Substance" means any substance designated pursuant to the Clean Water Act, Title 33 U.S.C. Section 1321, any element, compound, mixture, solution or substance designated pursuant to the Comprehensive

Environmental Response, Compensation and Liability Act, Title 42 U.S.C. Sections 9601 and 9602, any hazardous waste having the characteristics identified under or listed pursuant to the Solid Waste Disposal Act, Title 42, U.S.C. Section 6921 et. seq., any hazardous air pollutant listed under Section 112 of the Clean Air Act, Title 42 U.S.C. Section 7412, any imminently hazardous chemical substance or mixture with respect to which the administrator of the Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act, Title 15 U.S.C. Section 2606 and any “Hazardous Waste,” “Hazardous Substance,” “Pollutant or Contaminant” as defined in the Minnesota Environmental Response and Liability Act, Minnesota Statutes, Section 115B.02. The term also includes, but is not limited to polychlorinated biphenyls, asbestos, urea formaldehyde, petroleum and petroleum byproducts as defined in Minn. Stat. § 115C.02, Subd. 10, or related substances.

(b) Tenant shall, at Tenant’s own expense comply with all Laws regulating Tenant’s use, generation, storage, transportation, or disposal of Hazardous Substances (the “Hazardous Substance Laws”).

(c) The Port Authority acknowledges that the Tenant intends to use the Leased Premises as detailed in this Lease. As part of Tenant’s use of the Premises, Tenant is permitted to use or store those Hazardous Substances identified in Exhibit C attached hereto. Tenant shall, from time to time, submit an updated Exhibit C to the Port Authority for review and approval, which approval shall not be unreasonably withheld, and which approval shall be deemed given if the Port Authority fails, within thirty (30) days of Tenant submitting such Exhibit, to object to Tenant’s updated Exhibit C. Tenant shall not cause or permit, on the Premises, a violation of any federal, state, or local statute, regulation, or ordinance related to the presence, use, generation, release, spill, discharge treatment, processing, storage (including storage in above ground and underground storage tanks), handling, transportation, or disposal of any Hazardous Substance.

(i) Tenant shall comply with the terms of any environmental permit(s) with respect to the Leased Premises.

(ii) Violations of law related to Hazardous Substances arising out of or related to Tenant’s Operations (whether occurring during the Lease Term or prior to the Lease Term during Tenant’s occupancy) are referred to collectively in this Article 7 as “Prohibited Activities or Conditions.” Tenant shall, at Tenant’s own expense, make all submissions to, provide all information required by, and comply with all requirements of all local, state and Federal governmental authorities and their respective agencies (the “Governmental Authority”) under the Hazardous Substances Laws.

(d) If any Governmental Authority demands that a cleanup plan be prepared and that a cleanup be undertaken which arises at any time from Tenant’s use or occupancy of the Leased Premises during the Lease Term, or prior to the Lease Term during Tenant’s occupancy, then Tenant shall, at Tenant’s own expense, prepare and submit to the Governmental Authority all plans and all related Governmental Authority required bonds and other financial assurances; with copies to the Port Authority; and Tenant shall carry out all such cleanup plans at Tenant’s sole expense.

(e) Tenant shall promptly provide to the Port Authority all reasonable, non-privileged, non-confidential information regarding the use, generation, storage, transportation, or disposal of Hazardous Substances that is requested by the Port Authority. If Tenant fails to fulfill any duty imposed under this Article within a reasonable time, the Port Authority may do so and, in such case, Tenant shall cooperate with the Port Authority in order to prepare all documents the Port Authority deems necessary or appropriate to determine the applicability of the Hazardous Substance Laws to the Leased Premises and Tenant's use thereof, and for compliance therewith, and Tenant shall execute all documents promptly upon the Port Authority's request. No such action by the Port Authority and no attempt made by the Port Authority to mitigate damages under any law shall constitute a waiver of any of Tenant's obligations under this Article.

(f) Tenant shall be responsible for any and all environmental Prohibited Activities or Conditions related to Hazardous Substances that occur or came into existence during Tenant's occupancy of the Leased Premises and also arose out of Tenant's occupancy of the Leased Premises.

(g) **Environmental Inspections.** Tenant shall undertake and cause to be performed any reasonable environmental inspections, tests or audits and cause to be performed any environmental inspections, test, or audits, ("Environmental Inspections") as required by a Governmental Authority, but only as related to Tenant's use of the Premises, and Tenant shall pay promptly the costs of all such Environmental Inspections. Tenant shall provide the Port Authority with copies of all Environmental Inspections. If Tenant fails to undertake and cause to be performed said Environmental Inspections related to its use of the Premises, the Port Authority may do so and any such costs incurred by the Port Authority (including the fees and out-of-pocket costs of attorneys and technical consultants whether incurred in connection with any judicial or administrative process or otherwise) which Tenant fails to pay promptly shall become Additional Rent as provided in Article 7 hereof. The results of any Environmental Inspections made by the Port Authority shall at all times remain the property of the Port Authority. The Port Authority hereby reserves the right, and Tenant hereby expressly authorizes the Port Authority, to notify and make available to any person the results of any Port Authority Environmental Inspections with respect to the Leased Premises. Tenant agrees that the Port Authority shall have no liability whatsoever as a result of delivering the results of any Environmental Inspections to any third party with a need to know, and Tenant hereby releases and forever discharges the Port Authority from any and all claims, damages, or causes of action, arising out of, connected with or incidental to the results of the delivery of any Environmental Inspections.

(h) Tenant shall indemnify, defend, and hold harmless the Port Authority Parties from all fines, suits, procedures, claims, and actions of every kind, and all costs associated therewith (including attorneys' and consultants' fees) arising out of or in any way connected with any Prohibited Activities or Conditions that occur during the Lease Term, or prior to the Lease Term during Tenant's occupancy, at or from the Leased Premises, or which arises at any time from Tenant Parties' use or occupancy of the Leased Premises, or from Tenant's failure to provide all information, make all submissions, and take all steps required by any Governmental Authority under the Hazardous Substance Laws.

(i) **Notification by Tenant.** Tenant shall promptly notify the Port Authority in writing upon the occurrence of any of the following events and shall deliver to the Port Authority copies of all orders, complaints, notices of violation and other communications received by Tenant in connection with:

(i) Tenant's discovery of any Prohibited Activity or Condition; and

(ii) Tenant's receipt of or knowledge of any, complaint, order (whether administrative or judicial), or notice of violation from any Governmental Authority with regard to past, present or future alleged Prohibited Activities or Conditions.

Any such notice given by Tenant shall not relieve Tenant of, or result in a waiver of, any obligation under this Lease.

(j) **Environmental Remediation.** If any investigation, site monitoring, containment, clean-up, restoration or other remedial work is necessary to comply with any Hazardous Substance Law or order of any Governmental Authority that has or acquires jurisdiction over the Leased Premises or the use, operation or improvement of the Leased Premises under any Hazardous Substance Law as a result of Tenant's Permitted Uses or the result of Prohibited Activities or Conditions ("Remedial Work"), Tenant shall, by the earlier of (i) the applicable deadline required by the Hazardous Substance Laws or (ii) thirty (30) days (weather permitting) after notice from the Port Authority demanding such action, begin performing the Remedial Work, and thereafter diligently prosecute it to completion, and shall in any event complete the work by the time required by applicable the Hazardous Substance Laws. If Tenant fails to begin on a timely basis or diligently prosecute any required Remedial Work, the Port Authority may, at its option, cause the Remedial Work to be completed, in which case Tenant shall reimburse the Port Authority on demand for the actual cost of doing so plus a 20% management fee. Any reimbursement due from Tenant to the Port Authority shall become Additional Rent. Tenant shall cooperate with any inquiry by any Governmental Authority and shall comply with any governmental or judicial order which arises from any alleged Prohibited Activity or Condition.

(k) In addition, by December 31, 2014, the City shall undertake what in the environmental industry is known as a Phase I analysis, hereinafter referred to as "environmental inspections". The environmental inspections shall include any reasonable environmental assessments, inspections, tests, or audits requirement by a Governmental Authority. The City shall be responsible for, pay for, and liable for any and all environmental remediations or mitigations caused by its occupancy of the Premises that may be required by a Governmental Authority arising from the environmental inspections.

(l) In addition, Tenant shall be liable for any and all environmental conditions or hazardous substances that occur or came into existence during Tenant's occupancy of the Leased Premises and arising out of its occupancy of the Leased Premises. Tenant shall not be responsible for any off-site migration of Hazardous Substances into the Leased Premises unless a Governmental Authority requires action by either the Landlord or the Tenant for such off-site migration, then Tenant shall be fully responsible to the extent required by the Governmental Authority.

(m) **Survival of Tenant Obligations.** Tenant's obligations and liabilities under this Lease with respect to Prohibited Activities or Conditions that took place or were caused during the Lease Term shall survive the expiration or earlier termination of this Lease, except to the extent a Governmental Authority has provided written notice of its approval or other closure of Tenant's Remedial Work.

(n) Tenant shall hold Landlord harmless from and indemnify and defend Landlord against any claims brought by any party involving environmental matters under CERCLA, MERLA or any related Acts, based on activities of Tenant or any of Tenant's agents, successors or assigns on or involving the Property. The term "claim" shall include remediation costs, damages, fines, penalties, forfeitures, administrative costs, consent agreements and orders, attorney's fees, consultant's fees and laboratory fees.

(o) **Survival.** Tenant acknowledges that notwithstanding any language herein to the contrary, Tenant's indemnification provisions under this Section shall survive the termination of this Lease and shall be in addition to any and all other rights and remedies of Landlord for Tenant's failure to pay Rent or abide by any other covenants of this Lease.

21. **Assignment or Subletting.** Tenant agrees not to transfer or assign this Lease or sublease all or any portion of the Property without obtaining the prior written consent of Landlord which consent Landlord may grant or deny at Landlord's sole discretion. Landlord's consent to any assignment of this Lease or sublease shall not be a waiver of Landlord's rights under this Section as to any subsequent assignment or sublease. Landlord's right to assign this Lease is and shall remain unqualified. Tenant's assignment of this Lease or sublease of the Property with Landlord's consent shall not relieve Tenant from any of Tenant's obligations under this Lease, and no assignment of this Lease or sublease of the Property or other transfer of this Lease shall be effective unless the assignee, sublessee or transferee shall at the time of such assignment, sublease or transfer, assume in writing for the benefit of Landlord, its successors or assigns, all of the terms, covenants and conditions of this Lease thereafter to be performed by Tenant and shall agree in writing to be bound thereby.

22. **Sale or Encumbrance of the Property and Estoppel Certificates.**

a. **Sale or Assignment of the Property.** If Landlord sells, assigns or otherwise voluntarily conveys the Property during the term of this Lease. Landlord shall be and hereby is relieved of all of Landlord's obligations under this Lease which accrue after the date of sale, and such sale shall result automatically in the purchaser assuming and agreeing to carry out all of such obligations of Landlord. Tenant agrees to immediately and automatically attorn to such assignee.

b. **Estoppel Certificate.** If Landlord desires to sell or encumber the Property during the term of this Lease, Tenant shall, at the request of Landlord, provide Landlord or such other Party as Landlord may designate with an estoppel certificate in which Tenant:

(i) states that the Lease is unmodified and in full force and effect or references or specifically describes any modifications and states that the Lease is in full force and effect as modified;

(ii) states that Landlord is not currently in default under the terms of the Lease or specifically describes all alleged defaults;

(iii) states the amount of any prepaid Rent; and

(iv) provides such other information regarding the Lease or the Property as Landlord may reasonably request.

23. **Holding Over.** If Tenant remains in possession of the Property after the expiration or termination of this Lease and without the execution of a new Lease and Landlord does not commence an unlawful detainer proceeding during the first month after such expiration or termination, Tenant shall be deemed to be occupying said Property as a tenant from month to month, subject to all the conditions, provisions and obligations of this Lease.

24. **Abandonment.** If Tenant shall remove its Tenant fixtures (if any) or personal property from the Property or shall vacate the Property or any part thereof prior to the expiration or termination of this Lease, or shall discontinue or suspend the operation of its business conducted on the Property for a period of more than thirty (30) consecutive days, then in any such event Tenant shall be deemed to have abandoned the Property and Tenant shall be in default under the terms of this Lease.

25. **Overdue Payments.** All monies due from Tenant to Landlord shall be due on demand, unless otherwise specified, and if not paid when due, shall bear interest, until paid, at a per annum rate of four percent per annum.

26. **Surrender.** Upon expiration or termination of this Lease, Tenant shall peaceably surrender the Property free of waste and debris and in good order, condition and repair, reasonable wear and tear excepted and shall promptly surrender all keys for the Property to Landlord at the place then fixed for payment of Rent and shall inform Landlord of the combinations of any locks and safes on the Property. On or before the Expiration Date or within 24 hours of Landlord's termination of this Lease, Tenant shall, at its expense, remove all personal property and Tenant Fixtures (if any) from the Property, and Tenant shall be conclusively deemed to have abandoned any property not removed within the 24 hour time period.

27. **Access to Property.** Tenant agrees to permit Landlord and the authorized representatives of Landlord to enter the Property at all times during usual business hours for the purpose of inspecting the same and for performing any inspections, surveys, repairs or replacement or otherwise, provided such activities do not unreasonably interfere with Tenant's use of the Property. Nothing herein shall imply any duty upon the part of Landlord to do any such work which, under any provision of this Lease, the Tenant may be required to perform, and Landlord's performance thereof shall not constitute a waiver of Tenant's default in failing to perform the same. Landlord reserves the right to enter upon the Property at any time in the event of an emergency.

28. **Damage or Destruction.** If fire or other casualty damages or destroys the Property during the term of this Lease, the following provisions shall apply:

a. If fire or any other casualty damages the Property and the cost of restoration, as estimated by Landlord, equals or exceeds ten percent (10%) of the replacement value of the Improvements (exclusive of foundation) just prior to the occurrence of the damage, Landlord may, no later than the sixtieth (60th) day following the damage, give Tenant written notice of Landlord's election to terminate this Lease.

b. If fire or other casualty damages the Property and the cost of restoration, as estimated by Landlord, equals or exceeds ten percent (10%) of said replacement value of the Improvements and if the Improvements is not suitable for the business of Tenant as a result of said damage in the reasonable opinion of Tenant, then Tenant may, no later than the sixtieth (60th) day following the damage, give Landlord a written notice of election to terminate this Lease.

c. If fire or other casualty damages the Property and the cost of restoration, as estimated by Landlord, is less than ten percent (10%) of said replacement value of the Improvements, or if, despite a greater cost of restoration, neither Landlord nor Tenant elect to terminate this Lease, Tenant shall repair such damages as soon as reasonably possible and Landlord shall allow Tenant to use the proceeds of any property insurance in connection with such repairs under the terms and conditions established by Landlord to ensure that such proceeds are used for said repair. Tenant shall be responsible to pay any and all amounts over and above the insurance proceeds to complete such repairs. Landlord shall not be responsible for restoring or repairing leasehold improvements of the Tenant. Tenant's obligation to pay Rent shall not abate during the period of Landlord's restoration.

d. If either party elects to terminate the Lease as provided for above, the Lease shall be deemed to terminate on the date the non-terminating party receives notice of election to terminate and all Rent shall be paid up to that date. Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease.

29. **Eminent Domain.** If an eminent domain proceeding is commenced or a private sale in lieu thereof occurs with respect to the Property during the term of this Lease, the following provisions shall apply:

a. If a public or private body with the power of eminent domain or condemnation other than Landlord (a "Condemning Authority") acquires all of the Property through the exercise of its power of eminent domain or condemnation or as a result of a sale in lieu thereof, this Lease shall cease and terminate as of the date the Condemning Authority acquires possession. Tenant shall pay all Rent up to that date.

b. If a Condemning Authority acquires only a part of the Property and such acquisition materially affects the Property so as to render the Property unsuitable for the business of the Tenant, in the reasonable opinion of Tenant, then this Lease shall cease and terminate as of the date the Condemning Authority acquires possession. Tenant shall pay all Rent due up to the date of such termination.

c. If a Condemning Authority acquires only a part of the Property and such acquisition does not materially affect the Property so as to render the Property unsuitable for the business of the Tenant, in the reasonable opinion of Tenant, this Lease shall continue in full force and effect without any abatement of the Rent, and Landlord shall have no obligation to restore the Property to the condition it was in before such acquisition.

d. Tenant shall not be entitled to any part of the award paid in any condemnation acquisition under power of eminent domain or any part of any of the proceeds of a sale in lieu thereof, and Landlord shall receive the full amount of such award. The Tenant hereby expressly waives any right or claim to any part of such award or proceeds.

e. Although all damages in the event of any condemnation shall belong to the Landlord whether such damages are awarded as compensation for diminution in value of the leasehold or to the fee of the Property, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such relocation benefits or other compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of the condemnation and for or on account of any cost or loss to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment.

30. **Default of Tenant.**

a. **Events Of Default.** The occurrence of any one or more of the following events shall constitute an Event of Default:

(i) Tenant's failure to pay Rent as due;

(ii) Tenant's failure to fully perform any of Tenant's obligations, other than the obligations referenced in Section 26a(1) above, or to abide by any restrictions set forth in this Lease within ten days of Landlord's written notice to Tenant of Tenant's failure to perform or abide by such obligation or restriction;

(iii) Tenant's insolvency or filing, or having filed against it, any bankruptcy or debtor proceedings or proceedings where the appointment of a receiver or trustee of all or any portion of Tenant's property, or if Tenant or any guarantor of Tenant's obligations under the Lease makes an assignment for the benefit of creditors;

b. **Landlord's Remedies.** If an Event of Default occurs, Landlord shall have the following remedies;

(i) Landlord may, but shall not be obligated to, and without notice to or demand upon the Tenant and without waiving or releasing the Tenant from any obligations of the Tenant in under this Lease, pay or perform any obligations of Tenant; pay any cost or expense to be paid by Tenant; obtain any

insurance coverage and pay premiums therefor; and make any other payment or perform any other act on the part of the Tenant to be made and performed as provided for in this Lease, in such manner and to such extent as the Landlord may deem desirable, and in exercising any such right, to also pay all necessary and incidental costs and expenses, employ counsel and incur and pay attorneys' fees. Tenant shall pay any and all such sum or sums to Landlord with interest as provided for in this Lease.

(ii) Landlord may terminate this Lease by written notice to Tenant. Neither the passage of time after the occurrence of the Event of Default nor Landlord's exercise of any other remedy with regard to such Event of Default shall limit Landlord's right to terminate the Lease by written notice to Tenant.

(iii) Landlord may, whether or not Landlord has elected to terminate this Lease, immediately commence summary proceedings in Unlawful Detainer to recover possession of the Property. Upon Landlord's reentry upon and repossession of the Property, Landlord may remove Tenant and all other persons from the Property. Landlord may, at Landlord's option, either remove and store in any public warehouse or elsewhere, at Tenant's sole cost and expense or store on the Property, pursuant to Minnesota Statutes § 566, any property of Tenant which is located on the Property at the time of Landlord's reentry upon and repossession thereof. Landlord may exercise Landlord's right to reenter upon and repossess the Property pursuant to this subsection without being guilty of trespass or conversion and without becoming liable to Tenant for any loss or damage Tenant may suffer as a result thereof. Landlord's reentry upon and repossession of the Property shall not be deemed to be an implied or express termination of the Lease.

(iv) If Landlord reenters upon and repossesses the Property without terminating this Lease, each of Tenant's obligations under this Lease shall survive and continue, including Tenant's obligation to pay Rent, and Tenant shall fulfill such obligations within the time periods set forth in this Lease. Landlord may, but shall not be obligated to, attempt to relet the Property for such term or terms (which may be greater or less than the period which would otherwise have constituted the term of this Lease); on such terms and conditions (which may include concessions or free rent); and for such uses as Landlord, in its sole discretion, deems appropriate, and Landlord may collect and receive all rent payable on such reletting. Landlord shall apply any rent actually received, less all costs of such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, attorneys' fees, alteration costs, and expenses incurred in preparing the Property for such reletting, towards the payment of the amounts which Tenant owes under this Lease. Landlord shall not be responsible to Tenant for any failure to collect rent due on such reletting. If the rent received as a result of such reletting, after reduction for all costs of such reletting exceeds the amount which Tenant owes under the Lease, all such excess shall accrue to Landlord.

(v) If Landlord terminates this Lease, Landlord may elect to recover from Tenant, as damages for Tenant's default, either:

(a) all amounts due under this Lease as of the date of termination plus periodic payments of amounts equal to the Rent due under this Lease which payments shall be due at such times as Rent would have been due under this Lease. The amounts due shall be reduced by an amount equal to the rent which Landlord actually receives upon any reletting of the Property, after deduction for all costs of such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, attorneys' fees, alteration costs, and expenses incurred in preparation for such reletting. Landlord shall not be responsible or liable to Tenant for any failure or inability to collect any rent due upon any reletting. Tenant shall pay such damages to Landlord monthly, without demand, deduction, set-off or counterclaim, on the days on which the Rent would have been payable under this Lease if this Lease were still in effect, and Landlord shall be entitled to recover such amount from Tenant on each such day; or

(b) all amounts due under this Lease as of the date of termination plus an amount equal to the present value of the remaining Rent due for unexpired term of the Lease at the time of termination less the present value of the fair rental value of the Property for the same time period, after reduction for all estimated costs of reletting and estimated holding costs until a new tenant may be found.

(vi) In addition to all remedies hereunder dealing with failure of Landlord to pay Rent or abide by other covenants of this Lease, whether or not the Lease is terminated, Landlord shall have the right to enforce its rights under the terms of this Lease dealing with indemnification.

(viii) In addition to all other remedies of Landlord, Landlord shall be entitled to reimbursement upon demand of all reasonable attorneys' fees and costs which Landlord incurs in connection with any Event of Default.

No remedy provided for herein or elsewhere in this Lease or otherwise available to Landlord by law, statute or equity, shall be exclusive of any other remedy, but all such remedies shall be cumulative and may be exercised from time to time and as often as the occasion may arise.

31. **Government Proceeds.**

a. **MMB Requirements.** The terms and conditions set forth on Exhibit D are incorporated in full.

b. If at any time during the term of the Lease, the Port Authority uses any proceeds from any Governmental Authority at the Leased Premises, then the Port Authority may propose amendments to this Lease in order for the Premises to conform with requirements related to the use of such proceeds. If any initiative funded by a Governmental Authority requires installation of any improvement, alteration or addition to the Premises for purposes of conformance with funding conditions ("Mandated Improvements"), the Port Authority may propose Tenant perform the Mandated Improvements where the Port Authority's planned Mandated Improvements may benefit or positively impact the Tenant and its use of the Leased Premises. The Port Authority agrees to confer with the Tenant and provide the Tenant a reasonable opportunity to review and comment on the Port Authority's proposals as well as any substantial and material changes to the proposals. Tenant's contribution to any Mandated Improvement shall be based on a square footage pro-rata allocation of all tenants benefitting from the Mandated Improvement. If the cost to Tenant for Mandated Improvements is estimated to exceed One Hundred Thousand Dollars (\$100,000.00), then Tenant may choose not to perform such Mandated Improvements and either Party may terminate this Lease in accordance with the termination provisions herein.

32. **General.**

a. **Tenant's Inspection.** Tenant acknowledges that it has had full opportunity to investigate and make its own determination regarding the suitability of the Property for Tenant's intended use.

b. **Landlord's Disclaimer of Warranty.** Landlord disclaims any warranty that the Property is suitable for Tenant's use.

c. **Relationship of Landlord and Tenant.** The Lease does not create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, the sole relationship between the parties hereto being that of Landlord and Tenant.

d. **Waiver.** No waiver of Landlord's remedies upon the occurrence of an Event of Default shall be implied from any omission by Landlord to take any action on account of such Event of Default, and no express waiver shall affect any Event of Default other than the Event of Default specified in the express waiver and such an express waiver shall be effective only for the time and to the extent expressly stated. One or more waivers by Landlord shall not then be construed as a waiver of a subsequent Event of Default.

e. **Consent.** Landlord's consent to or approval of any act requiring Landlord's consent or approval shall not waive or render unnecessary Landlord's

consent to or approval of any subsequent similar act by Tenant. Whenever provision is made under this Lease for Tenant securing the consent or approval by lessor, such consent or approval must be in writing executed by an authorized representative of Landlord.

f. **Constructive Eviction.** No action required or permitted to be taken by or on behalf of Landlord under the terms or provisions of this Lease shall be deemed to constitute an eviction or disturbance of Tenant's possession of the Property.

g. **Merger.** All previous agreements, understanding, representations and warranties are merged into and incorporated in this Lease.

h. **Choice of Law.** The laws of the State of Minnesota shall govern the validity, performance and enforcement of this Lease.

i. **Time.** Time is of the essence in the performance of all obligations under this Lease.

j. **Entire Agreement and Amendment.** This Lease and the Exhibits hereto, if any, attached hereto and forming a part hereof, constitute the entire agreement between Landlord and Tenant affecting the Property and there are no other agreements, either oral or written, between them other than are herein set forth. No subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and executed in the same form and manner in which this Lease is executed.

k. **Unenforceability.** If any agreement, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such agreement, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each agreement, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

l. **Successors and Assigns.** The terms, covenants and conditions of this Lease shall be binding upon and inure to the successors and assigns of the parties hereto.

m. **Recording.** Tenant shall not record this Lease without the written consent of Landlord. Upon the request of Landlord, Tenant shall join in the execution of a Memorandum Lease for the purposes of recordation. Said Memorandum Lease shall describe the parties, the Property and the term of the Lease and shall incorporate this Lease by reference.

n. **Notices.** Any notice required or permitted under this Lease shall be deemed sufficiently given or secured if sent by registered or certified return receipt mail to:

Tenant:

City of Saint Paul
Attn: Real Estate Manager
25 W. 4th St., Rm. 1000
Saint Paul, MN 55102

Landlord:

Saint Paul Port Authority
Attn: Dir. of Real Estate and Development
380 St. Peter Street, Suite 850
Saint Paul, MN 55102

{Remainder of page intentionally left blank}

EXHIBIT A

Impound Lot Lease – Legal Descriptions

East Parcel (original 1975 lease) – depiction Exhibit A-2, Page 1 of 2

All or any part of Lot 8 and of Lots 23 to 30; inclusive, Block 48; Lots 1 to 8, inclusive and Lots 30 to 38, inclusive, Block 45; Lots 11 to 18, inclusive, Block 46; and of Lamprey Avenue; Greve Street and Annapolis Street and of the alleys adjacent to said lots all in the West St. Paul Real Estate and Improvement Syndicate Addition No. 3 that is encompassed by a line described as follows; Commencing at the Northeast corner of the Northwest $\frac{1}{4}$ of Section 16, Township 28 North, Range 22 West, being a point on the South line of said Addition No. 3, thence South $89^{\circ} 28'$ West, along said South Addition line, for 30.0 feet to the point of beginning of the line to be described, thence continuing South $89^{\circ} 28'$ West for 350.0 feet, thence North $0^{\circ} 08' 17''$ East for 489.65 feet, thence South $60^{\circ} 11'$ East for 600.04 feet, thence South $19^{\circ} 59' 53''$ West for 75.00 feet, thence South $43^{\circ} 18' 04''$ West for 98.51 feet, thence South $59^{\circ} 43' 58''$ West for 91.01 feet to the point of beginning.

Containing 165,170 square feet (3.79 acres)

Added Road Area 1984 (w/ cul-de-sac deduct) – depiction Exhibit A-3

No legal description available.

Containing 23,181 square feet (0.53 Acre)
(28,728 sq ft [Parcel A] – 5,547 sq ft [Parcel B])

1985 West Parcel (including storm water pond) – depiction Exhibit A-4, Page 1 of 2

Registered Property

All that part of Blocks 50 and 57, The West St. Paul Real Estate and Improvement Syndicate Addition No. 4 and of the Northwesterly $\frac{1}{2}$ of vacated Wyoming Street and of vacated Winona Street and of Belvidere and of Section 9, Township 28 Range 22 that lies Easterly of the Easterly Right of Way line of the Chicago Great Western Railroad and Westerly of a curved line concave to the East, having a radius of 2,906.62 feet, and which line passes through a point on the Northwesterly line of Lot 1 said Block 50 distance 133.12 feet Northeasterly from the most Westerly corner of said Lot 1 and through a point on the Southeasterly line of Lot 9 said Block 50 distant 86.41 feet Northeasterly from the most Southerly corner of said Lot 9, and Southwesterly of the following described line commencing at the South $\frac{1}{4}$ corner of said Section 9; thence North $0^{\circ} 50' 30''$ West, along the North-South $\frac{1}{4}$ line a distance of 248.10 feet; thence North $60^{\circ} 11'$ West a distance of 1604.89 feet to the intersection with the above described curved line also being the point of beginning of the line to be described; thence continuing North $60^{\circ} 11'$ West a distance of 543.81 feet to the above described Right of Way line and there terminating.

Subject to the easements and rights reserved by Chapter 130 of the St. Paul Legislative Code, to retained drainage easements and to retained electric and gas easements in favor of Northern States Power Company as set forth in the instrument filed in the office of the Registrar of Titles as document No. 717592, as to said streets.

Abstract Property

All that part of Northeasterly $\frac{1}{2}$ of vacated Versailles Avenue adjoining Block 56, The West St. Paul Real Estate and Improvement Syndicate Addition No. 4 that lies Westerly of a curved line concave to the East, having a radius of 2,906.62 feet, and which line passes through a point on the Northwesternly line of Lot 1 said Block 50 distance 133.12 feet Northeasterly from the most Westerly corner of said Lot 1 and through a point on the Southeasterly line of Lot 9 said Block 50 distant 86.41 feet Northeasterly from the most Southerly corner of said Lot 9, and Southwesterly of the following described line commencing at the South $\frac{1}{4}$ corner of said Section 9; thence North $0^{\circ} 50' 30''$ West, along the North-South $\frac{1}{4}$ line a distance of 248.10 feet; thence North $60^{\circ} 11'$ West a distance of 1604.89 feet to the intersection with the above described curved line also being the point of beginning of the line to be described; thence continuing North $60^{\circ} 11'$ West a distance of 41.16 feet to the centerline of said avenue and there terminating.

Subject to the easements and rights reserved by Chapter 130 of the St. Paul Legislative Code, to retained drainage easements and to retained electric and gas easements in favor of Northern States Power Company as set forth in the instrument filed in the office of the Registrar of Titles as document No. 717592, as to said streets.

All containing 125,237 square feet (2.88 Acres)

Added Area West of East Parcel (2002 lease amendment and extension) – depiction Exhibit A-5

No legal description available.

Containing 82,764 square feet (1.90 Acres)

EXHIBIT A-1

SOUTHPORT INDUSTRIAL PARK – IMPOUND LOT

AREA OF LEASED PREMISES

East Parcel (Parcel 1 - original 1975 lease)	165,170 sq. ft.	3.79 acres
Added Road Area 1984 (Parcel A)	28,728 sq. ft.	0.66 acre
Deduct cul-de-sac (Parcel B - area originally in Parcel 1)	(5,547) sq. ft.	(0.13) acre
1985 West Parcel	125,237 sq. ft.	2.88 acres
Added Area West of East Parcel (2002 amend./ext.)	<u>82,764</u> sq. ft.	<u>1.90</u> acres
	396,352 sq. ft.	9.10 acres

EXHIBIT A-2

Plan 735411

EXHIBIT A-2
(Part of 2)

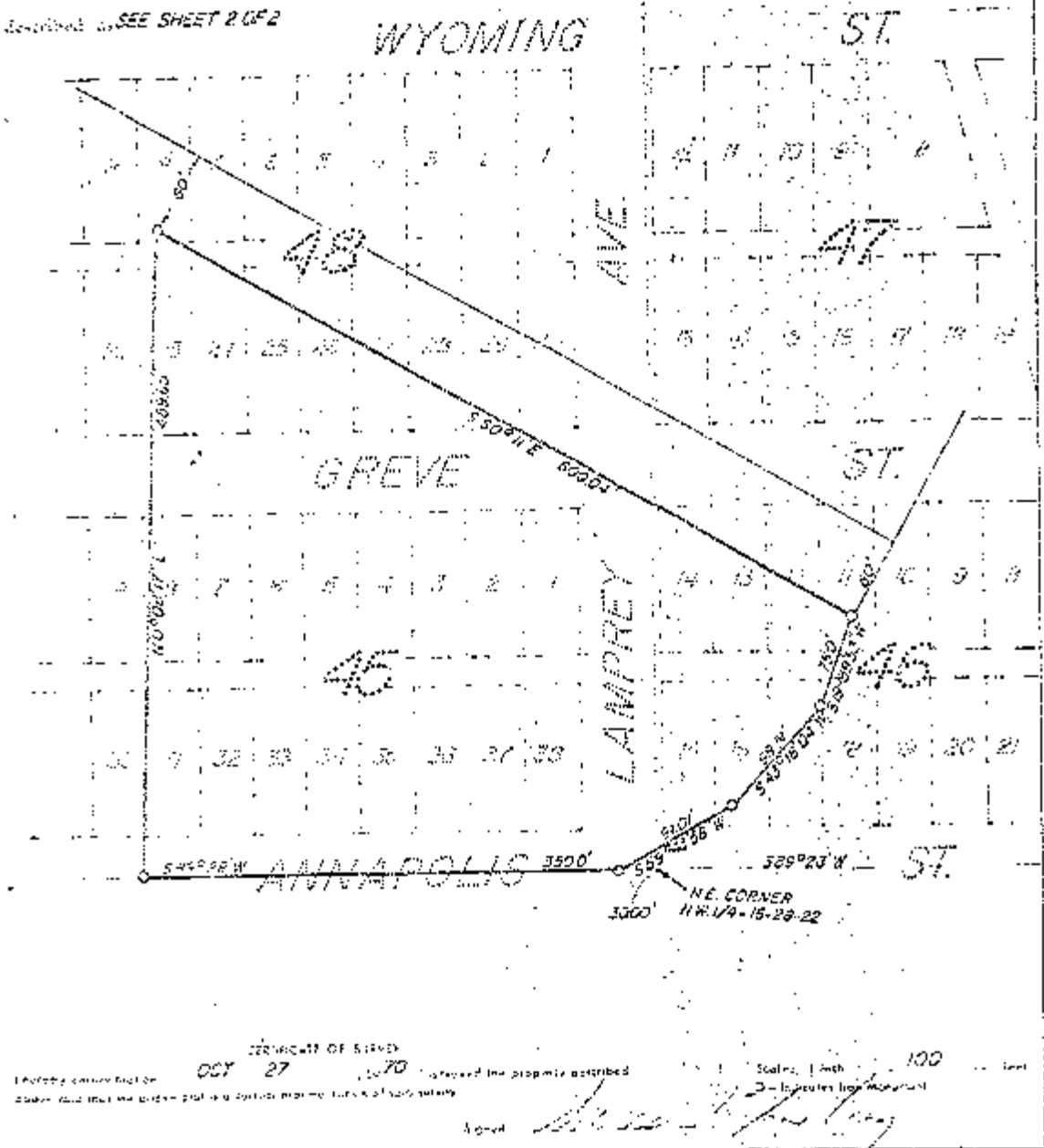
St. Paul, Minn. 552

Leica and Land Surveying Co.

WARREN L. BURROUG, Registered Land Surveyor

SURVEY FOR... **PORT AUTHORITY OF THE CITY OF ST. PAUL.**

Continued on **SEE SHEET 2 OF 2**



I hereby certify that on **OCT 27 1970** I surveyed the property described
 above and that the same is a correct and true copy of said survey.
 Surveyor *Warren L. Burrough*
 Scale: 1 inch = 100 feet
 2 - Copies for Monument

EXHIBIT A-3

EXHIBIT A-3

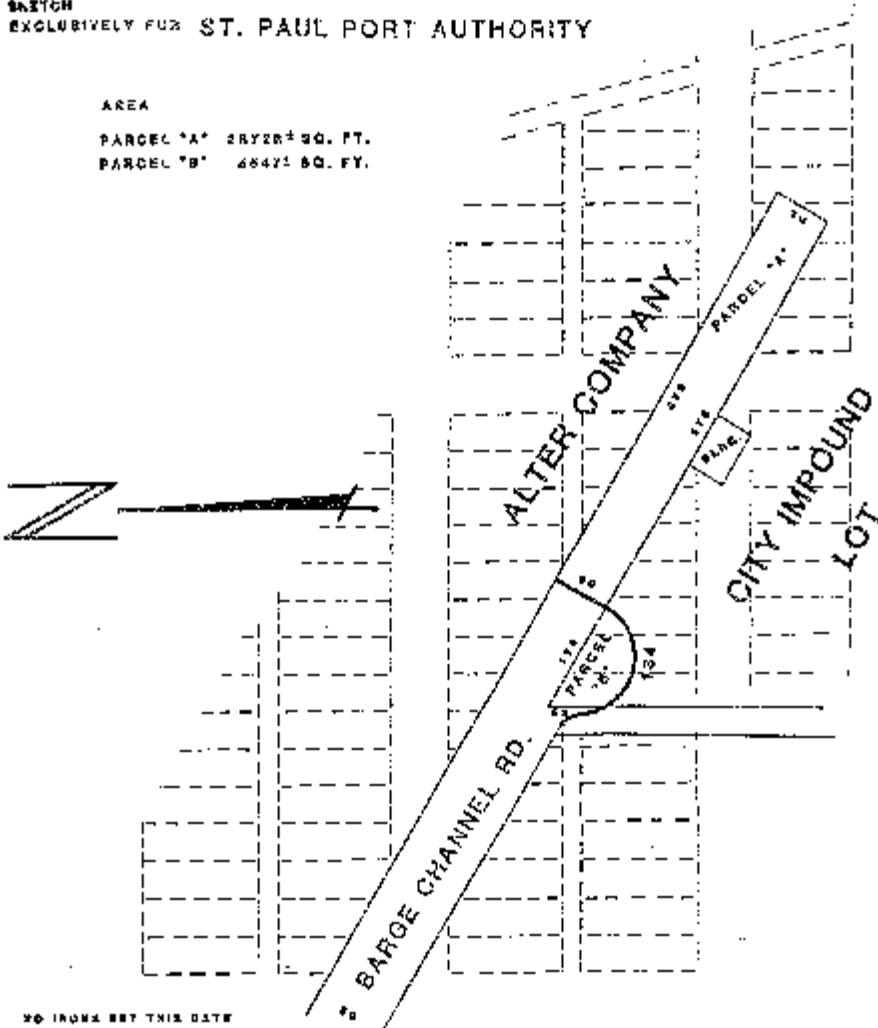
WARREN E. FORBERG CONSULTING R.L.S.
LAKE & LAND SURVEYING INC.
 JAMES E. DANLEY R.L.S. President



1290 HUDSON RD.
 ST. PAUL, MN 56108
 778-8211
 Affiliated With
METROPOLITAN ENGINEERING AND SURVEYING

SKETCH
 EXCLUSIVELY FOR ST. PAUL PORT AUTHORITY

AREA
 PARCEL "A" 28728± SQ. FT.
 PARCEL "B" 48471± SQ. FT.



NO INCHES BY THIS DATE

Scale: 1 inch = 100 Feet

Sheet 01 Sheets

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

By James E. Danley
 MINE, R.L.S. No. 14887
 on the 13TH day of JUNE 1964.

This certificate valid only with impression seal in party named herein.

BEARINGS ARE ASSUMED

⊙ Indicates Iron Monument Set & Marked R.L.S.
 ⊙ Indicates Iron Monument Found, Set By Others

Improvements and/or encroachments located and shown only upon request.

DES. - Described REC. - Record MEA. - Measured

DESCRIPTION



EXHIBIT B

Tenant Improvements

East Parcel

- Chain link fencing
- Office/vehicle processing and storage building
- Sensitive evidence vehicle storage building (30' X 60')
- Block building – material storage (8' X 12')
- Area lights/poles
- Three (3) outdoor storage containers

West Parcel

- Chain link fencing
- 10' X 12' shed
- Area lights/poles

Tenant Fixtures – (Per Sec. 3: Items that shall remain property of the Tenant)

East Parcel

- Car lift
- Garage heater
- Security cameras

Tenant Personal Property – (Per Sec. 3: Items that shall remain property of the Tenant)

East Parcel

- Office equipment, including but not limited to desks, chairs, computers, etc.
- Impounded motor vehicles
- Other impounded property, equipment and materials associated with Tenant's operations

EXHIBIT C

Not applicable. No known "Hazardous Substances" on the Leased Premises.

EXHIBIT D

1. This Exhibit is being added in order to demonstrate that the Lease does comply with, and to clarify and establish compliance with, Minnesota Statutes Section 16A.695 (the “Act”) and the Fourth Order Amending Order of the Commissioner of Finance Relating to Use and Sale of State Bond Financed Property dated July 30, 2012, to ensure that State General Obligation Bonds are used solely for the purposes delineated in the Act and that the interest to be paid on such bonds is and will continue to be exempt from federal income taxation.

2. Tenant hereby makes an irrevocable election (binding on the Tenant and all successors-in-interest) not to claim depreciation or an investment credit with the respect to the Leased Premises. Tenant may claim depreciation or investment credits for structures, fixtures, and personal property located on the Leased Premises and owned by Tenant.

3. The Port Authority is not required to renew the Lease beyond the Original Term thereof and the Port Authority may, at its sole discretion, allow the original Lease to expire at the end of its original term and thereafter, directly pursue its Port Development Program (as defined below) on the Leased Premises and, if applicable, contract with some other entity to operate the Port Development Program on the Leased Premises. One of the essential criteria the Port Authority will exercise in its determination to renew the Lease beyond its Original Term is whether Tenant’s use of the Leased Premises will continue to carry out the Port Development Program.

4. Tenant has no option to purchase the property under the original Lease.

5. This Lease is being executed and entered into in order to carry out a Government Program under Minnesota law, specifically the Port Authority of the City of Saint Paul shall:

promote the general welfare of the Saint Paul port, try to increase the volume of the port’s commerce, promote the efficient, safe and economical handling of the commerce, and provide or promote adequate docks, railroads and terminal facilities open to all on reasonable and equal terms for the handling, storage, care and shipment of freight and passengers to, from, and through the port. A port authority may carry out its powers and duties under Minnesota Statute Section 469.048 to 469.068 at any place in the city.

Minn. Stat. § 469.055(1). Accordingly, the Governmental Program, for which the Port Authority’s duties and powers are provided by law, is defined under Section 469.048 to 469.068 and 469.084 hereinafter for the purposes of this lease are referred to as “the Port Development Program”.

6. Under Minn. Stat. § 469.056, subd. 2, the Port Authority may contract to erect, repair, maintain or operate docks, warehouses, terminals, elevators or other structures on or in connection with property it owns or controls.

7. As part of the Port Authority's Port Development Program oversight, the Tenant shall provide tonnage reports at least semi-annually or as soon as practical after a request from the Port Authority or Minnesota Department of Transportation, and provide any other information, subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, in a reasonable manner and time period upon the request for such information.

8. Lease Rent received by the Port Authority may be paid to the 876 Bond Fund¹ pursuant to and during the term required by the 876 Resolution as amended; or, to the extent or if the rent is not pledged to the 876 Bond Fund, then the Port Authority will apply the rent towards the Port Authority's annual operating costs of the Leased Premises and commons areas.

9. The Port Authority represents and Tenant understands and agrees that when and if the Port Authority expends any proceeds from State General Obligation Bonds made available to the Port Authority such monies shall be used solely to provide improvements to publicly owned facilities located on the Leased Premises (examples of such expenditures include dockwalls, sewer and storm water facilities, and roadways).

10. Tenant understands that the Port Authority was created by the State of Minnesota and the State of Minnesota at any time, in its sole discretion, may terminate the Port Authority as a governmental entity. Under Minn. Stat. § 469.049, the "Port Authority carries out an essential government function of the state when it exercises its powers." If the Port Authority should be eliminated under the laws of the State of Minnesota, then in such an event Tenant approves, or waives any objections, to the assignment of this Amended Lease to the governmental entity that assumes the Port Authority's assets to the extent that said governmental entity will operate the Port Development Program. If under the laws of the State of Minnesota, the Port Development Program should be terminated as a governmental program or is changed so that the Port Authority is no longer allowed to operate the Leased Premises for the Port Development Program, then this Lease automatically terminates.

¹ On February 14, 1974 the Port Authority adopted its Basic Resolution No. 876 ("876 Resolution") to create a revenue bond development program intended to promote economic development in Saint Paul. The 876 Resolution is the contract document that sets forth various terms and conditions under which individual series of General Revenue Bonds would be issued. The General Revenue Bonds the Port Authority issued under the 876 Resolution were revenue bonds payable from designated revenue sources, principally the revenues from the Facilities financed by General Revenue Bonds; and, as additional security, the Port Authority also pledged Net Revenues from certain other properties the Port Authority owned, which includes the Leased Premises in this Lease, that were not otherwise pledged to the repayment of Other Secured Bonds (collectively, the pledged revenues are here referred to as the "876 Bond Fund").

11. There will be no sale of the Leased Premises, or if there is a sale of the Leased Premises then the Port Authority will comply with all applicable laws including Minn. Stat. § 16A.695 respecting its sale of the Leased Premises.